



Haiti

Country Reports on Human Rights Practices - [2003](#)

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Haiti is a republic with an elected president and a bicameral legislature. The 1987 Constitution remains in force, but many of its provisions were not respected in practice. The opposition parties boycotted the 2000 presidential elections, in which Jean-Bertrand Aristide was reelected with extremely low voter turnout. The political impasse and political violence stemming from controversial results of May 2000 legislative and local elections continued during the year. In September 2002, the Organization of American States (OAS) adopted Resolution 822 as a catalyst for resolving the political impasse. Included in the resolution was a provision calling for a legitimate Provisional Electoral Council (CEP), which was to be charged with planning local, municipal, and legislative elections during the year; however, the elections were never held. The Constitution provides for an independent judiciary; however, it is not independent in practice and remained largely weak and corrupt, as well as subject to interference by the executive and legislative branches.

The Government established the Haitian National Police (HNP) in 1995 as the sole security force in the country after disbanding the Armed Forces of Haiti (FAd'H). The HNP is officially an autonomous civilian institution; however, authorities did not maintain effective control of the security forces, and HNP officials at all levels were implicated in corruption and narcotics trafficking. Partisan political leaders increasingly exercised control over elements of the police and influenced it for personal or political gain. President Aristide filled many key HNP positions with political allies lacking experience, training, and credibility. Some parliamentarians, mayors, and members of local government councils (CASECs) exercised arrest authority without legal sanction. The HNP has a variety of specialized units, including a crisis response unit (SWAT); a crowd control unit (CIMO) serving Port-au-Prince and the Western department; crowd control units (UDMOs) serving each of the remaining eight departments; Special Brigades (BS) attached to certain commissariats; and a small Coast Guard unit. Police "attaches" became increasingly prevalent throughout the country and particularly in certain commissariats. The large and well-funded Presidential Security Unit, officially part of the HNP, had its own budget and remained administratively and functionally independent. Civilian deaths and serious injuries resulted from the inability of HNP units to maintain order. Members of the security forces committed human rights abuses during the year.

The country has a market-based economy and state-controlled utilities, and its economic stagnation continued during the year due to the continuing political crisis and the petroleum price shocks experienced in the second quarter. A small elite controlled much of the country's wealth. Two-thirds of the estimated 8 million citizens worked in subsistence agriculture and were extremely poor. The informal sector accounted for approximately 70 percent of all economic activity, making taxation problematic. Remittances from Haitians living overseas, estimated at \$931 million in 2002, were a growing revenue source. Textiles accounted for approximately 80 percent of recorded exports; assembled goods, leather goods, agricultural products, and handicrafts also provided limited export revenue. The Haitian Institute for Statistics calculated real GDP growth of 0.5 percent for the fiscal year, compared with negative growth of 0.9 percent for fiscal year 2002. Inflation was 42.5 percent for the fiscal year, compared with 10.7 percent for fiscal year 2002, largely reflecting the adjustment in fuel prices to world market rates and the decline in the value of the gourde. By year's end, inflation had subsided to an annualized rate in the low teens.

The Government's human rights record remained poor, with political and civil officials implicated in serious abuses. There were credible reports of extrajudicial killings by members of the HNP. Police officers used excessive--and sometimes deadly--force in making arrests or controlling demonstrations and were rarely punished for such acts. Attacks on and threats to journalists and political dissenters by members of Popular Organizations (OPs) and by supporters of the President's party, Fanmi Lavalas (FL), increased. Prison conditions remained poor, and prisoners with valid release orders continued to be held in defiance of these orders. Legal impunity remained a major problem, and police and judicial officials often failed to respect legal provisions or pursue and prosecute suspected violators. The media were largely free and often critical of the Government; however, most journalists practiced some form of self-censorship. Child abuse, violence, and societal discrimination against women remained

problems. Internal trafficking of children and child domestic labor remained a problem; however, the Government increased its efforts to address the issue.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From: a. Arbitrary and Other Unlawful Deprivation of Life

There were credible reports of extrajudicial killings by members of the HNP, municipal government officials, and civilian attaches (see Section 1.d.) associated with HNP commissariats. Individuals involved in the State University protest movement that began in August 2002 continued to be victims of violence and human rights violations. On January 7, assailants shot and killed Eric Pierre, a 27-year-old medical student, while leaving the Faculty of Medicine building. The authorities did not arrest anyone in connection with his death, despite witnesses' allegations that the attackers left the scene in two vehicles, one with official license plates and the other with the state telephone company logo on the side.

On January 8, police shot and killed an anti-government demonstrator as they were breaking up a demonstration in Gonaives. Jean-Dady Simeon, HNP spokesperson, claimed that the man was already dead when police intervened (see Section 2.b.).

On January 27, armed men shot and killed 17-year-old John Peter Ancy Oleus in Carrefour under orders from the wife of the Police Commissioner of Jacmel, Mrs. Cadet. As John Peter and Cadet were arguing over the Oleus family's garbage disposal near her home, Cadet summoned six armed men, one of whom shot and killed Oleus as he ran to lock the front door of his house to protect his sisters inside. The authorities arrested Cadet soon after the crime was committed, but State Prosecutor Josue Pierre Louis released her the following day. Louis claimed that he had to follow the "hierarchy of respect," and that he was simply following orders from the Justice Minister. At year's end, no one had been held responsible for Oleus' death.

On February 4, a group of armed men shot and killed Ronuald Cadet, another student involved in State University demonstrations who had been in hiding since November 2002. This case, remained unsolved at year's end.

On March 27, in Petit-Goave, a police bullet grazed 21-year-old Ginette Pierre, who was believed to be the daughter of a Convergence leader whom the police planned to arrest. After she fell to the ground, the officers put their car in reverse and ran over the woman's head, killing her instantly. The Government provided funds for her wake and funeral, but took no action against the police officers responsible for her death.

On May 18, a civilian attache from the Commissariat in Hinche killed Josue Telusme. On July 8, attaches from Delmas 33 Commissariat riding in a HNP vehicle killed Leon Regois and discarded his body at the State University Hospital.

In October, Municipal Commissaire for Hinche Neguippe Simon shot and killed a woman who accidentally struck his vehicle with a rock during a domestic dispute. Following the incident, Simon disappeared, but was later arrested, then inexplicably released from jail while pending trial in December and was promoted into higher ranks of the HNP leadership.

On October 21, police in Gonaives broke up an anti-Aristide march by the civil society coalition group Union Citoyenne. Police arrested several opposition members participating in the march. Police, in concert with pro-Lavalas "chimeres" (thugs) threw rocks and bottles, preventing the demonstration from taking place; one person was shot and killed and several others were injured.

Sparked by the death of Cannibal Army head Amiot "Cubain" Metayer (see Sections 1.b. and 3), several weeks of intense violence between police and Cannibal Army members were brought to a climax in Gonaives from October 26 to 28. On October 26, Cannibal Army members attacked the home of the Government's representative in Gonaives, Ketlin Telemaque, and burned one of the mayor's vehicles as police responded in kind. Following an attack on the main police commissariat, a gun battle between the police and gang members led to the death of a 12-year-old girl and the injuring of the Departmental Police Director.

From October 27 to 28, police and civilian chimeres mounted a major offensive on the gang-controlled section of Raboteau, Gonaives. While attempting to locate and arrest Cannibal Army members, police burned 10 homes in Raboteau, arrested area residents, and slaughtered livestock. Police efforts were unsuccessful, as the operation only netted civilians not involved with the Cannibal Army. During the siege, a newborn baby was burned to death, a woman was killed, and two other civilians were shot and injured. Reports estimated that there were as many as 50 dead and 80 injured civilians in Gonaives from September through December due to the continued violence.

In May, following a hearing before the Court of Appeals, Deputy Jocelyn Saint Louis of Saint Raphael, who was arrested for his alleged role in the January 2002 murder of mayor Sernand Severe, was released.

In December 2002, armed men dressed in black identified as HNP took three brothers, Angelot, Andy Philippe, and Vladimir Sanon, from their home in Carrefour in Port-au-Prince (see Section 1.c.). Later that day their bodies were found with gunshot wounds and taken to the city morgue. The boys had previously protested the police robbery and shooting of their friend, Marcellus Bongue. The authorities had not arrested anybody, and no examining judge had questioned any of the four policemen whom eyewitnesses identified as the last persons seen with the brothers. The police officers and the civilian attache from the Carrefour Commissariat suspected in the killing of the three brothers had not been brought to justice and were still working in that commissariat at year's end.

There was no progress in several other killings that occurred during 2002, including those of the three youths from Cite Soleil, a farmer in the town of Hinche, and four persons killed in an attack on the Las Cahobas jail.

In September 2002, an investigating judge indicted 10 persons in connection with the 2001 killing of journalist Brignol Lindor; however, he did not indict Petit Goave deputy mayor Duby Bony, who allegedly incited the killing when he said Lindor should be met with "zero tolerance" (a code word for officially sanctioned killings). Out of 27 warrants issued, the authorities arrested only 3 individuals in connection with Lindor's death. Judge Fritzner Duclair determined that the mayor's call did not incite the killing and failed to include the mayor or other local government officials who publicly called for retribution against Lindor (see Section 2.a.). By the end of January, only one person, Masee Zephir, remained in prison awaiting trial.

On March 24, almost 3 years after the killing of popular Radio Haiti-Inter host and journalist Jean Leopold Dominique, Judge Bernard Sainvil issued the final report on his investigation of the journalist's death. The report, criticized by the human rights community for its failure to identify the true authors of the crime, widely suspected to be high-ranking government officials, implicated six men: Dymsey Milien, alias "Tilou," for the actual murder, and five others who have already been in jail for more than 2 years as accomplices. Although Senator Dany Toussaint implicated former deputy mayor of Port-au-Prince Harold Severe during Toussaint's interrogation in January, in the final report, Severe was neither cleared nor implicated in Dominique's death. In August, Judge Jean Bien-Aime released three of the men incarcerated for the crime: Freud Junior Desmarates, Ralph Joseph, and Ralph Leger.

On January 27, the HNP took into custody Herbert Valmond and Carl Dorelien, both former FAd'H colonels returned to the country as criminal deportees. They were turned over to a special police unit who took them to the national penitentiary, where they remained at year's end. On January 29, Justice Minister Calixte Delatour announced that the two would be serving life sentences. In 2000, a criminal court in Gonaives had convicted Valmond and Dorelien in absentia, along with 35 former military leaders, for premeditated homicide in connection with the 1994 Raboteau massacre.

Vigilante killings are a long established practice in the country, and their incidence increased following President Aristide's zero tolerance exhortation to police and citizens to bypass the judicial system if they caught criminals in the act. During the year, human rights organizations, journalists, and opposition groups criticized the Government's support for this practice.

b. Disappearance

There were credible reports of politically motivated disappearances; however, there were fewer such reports than in the previous year.

Attaches from Delmas 33 police station arrested Junior Jean and Mankes Anelus in front of their neighbors in June. The pair has since disappeared.

On July 15, persons believed to be attaches from the Cap-Haitien Commissariat kidnapped Pierre Franklin Julien, father of Citizen's Initiative founder Denis Julien, and held him for ransom.

Ordonel Paul, a presidential palace employee and widely believed to be the man who betrayed Cannibal Army leader Amiot Metayer, was last seen with Metayer on September 21 (see Section 3).

There were no further developments in the cases of disappearances reported in 2002.

c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment

The 1987 Constitution prohibits the use of unnecessary force or restraint, psychological pressure, or brutality by the security forces; however, members of the security forces continued to violate these provisions. Police officers used excessive and sometimes deadly force in making arrests or controlling demonstrations and were rarely punished for such acts. Torture and other forms of abuse were reported.

Police mistreatment of suspects at the time of arrest and during detention remained common in all parts of the country. Beating with fists, sticks, belts, and "kalot marassa"--a severe boxing of the ears--were the most common form of abuse. Persons who reported such abuse often had visible injuries consistent with the alleged mistreatment. Mistreatment also took the form of withholding medical treatment from injured jail inmates.

A police officer from the Commissariat in Hinche shot Joseline Desroses in the mouth after she refused his sexual advances.

On July 14, the Brigade for Research and Intervention (BRI) arrested opposition militant Judie C. Roy and brought her to the National Police Academy, where she and three colleagues were tortured for 4 days before being transferred to the Delmas 33 police station. While at Delmas 33, they claimed to have been tortured using the kalot marassa method and brutally beaten by civilian attaches before being transferred to Fort National prison. Roy was refused medical treatment and legal counsel upon her initial arrival at Fort National, but eventually was allowed to see a doctor and obtain a lawyer after protest from the National Coalition for Haitian Rights (NCHR). Roy was eventually transferred to the Petionville police station where she remained at year's end.

On October 14, homeless 16-year-old Jonathan Louima was brutally beaten and tortured in the Port-au-Prince Police Commissariat. After being arrested, Louima was brought to the police station where police beat him and summoned dogs to bite him all over his body. He survived the attack, and HNP Chief Inspector Sainturne promised an investigation. At year's end, no police officers had been held responsible for the attack.

The police were accused of using excessive force against demonstrators and failing to protect demonstrators from violence by pro-Lavalas chimeres (see Section 2.b.).

Prison conditions remained poor. The Penitentiary Administration Management (DAP) made some progress in improving prison administration and warden training. Prisoners and detainees continued to suffer from a lack of basic hygiene, malnutrition, poor quality health care, and, in some facilities, 24-hour confinement. Most prisons periodically suffered from lack of water, especially in the provinces. The incidence of preventable diseases such as beriberi, AIDS, and tuberculosis increased. Some prisoners who were incarcerated for petty crimes were given amnesty and released by the Ministry of Justice during the year. The Government estimated the total prison population to be 3,519, including 116 female and minor (male and female) prisoners. This figure changed somewhat on December 31, when President Aristide issued a decree giving full amnesty to common law criminals still awaiting trial, and commuted the sentences of 66 other prisoners.

Overcrowding prevented the separation of violent from nonviolent prisoners or convicts from those in pretrial detention. Many were incarcerated in temporary holding cells, particularly in the provinces.

Prison officials confirmed reports by international human rights observers of instances of inmate abuse by prison personnel; however, no statistics were available. Prisoners and detainees, ignorant of legal rights or doubtful officials would respond positively, rarely filed official complaints.

The Government commission to investigate the 2001 riot at the National Penitentiary, the country's largest prison facility located in Port-au-Prince, had not yet published a report of its findings.

The Government's Office of Citizen Protection monitored prison conditions and offered training to prison administrators on criminal procedures, particularly the constitutional requirement limiting preventive detention (garde à vu) to 48 hours. The U.N. Development Program (UNDP) continued technical assistance to the DAP, focusing on midlevel warden training and management information. The NCHR actively monitored prison

conditions in cooperation with the DAP, which offered a prisoners' rights awareness campaign.

The DAP conducted objective testing of prison physicians and nurses to exclude those who were inadequately trained. Doctors were available in the capital but were less frequently available to those incarcerated in the provinces. Nurses did not conduct daily checkups on the physical condition of inmates. Dispensary supplies were limited, and family members often had to purchase needed medication.

Fort National prison in Port-au-Prince was the only prison facility exclusively for women and juveniles. In other prison facilities, women were held in cells separate from men. However, in 2000, U.N. Special Rapporteur for Violence against Women Radhika Coomaraswamy reported, based on her 1999 visit, that most female prisoners shared living quarters with male prisoners. This subjected women to violence and sexual abuse. Due to overcrowding, juveniles often were held with adults.

On February 14, 18-year-old Natacha Jean Jacques was released from Fort National, following strong protests from civil society organizations. Jacques became pregnant during her incarceration at Fort National while serving time after being arrested in 2000 for killing the man who was raping her. A warrant was issued for the arrest of her rapist in jail, a medical assistant working at the prison, Ilus Denasty. At year's end, he remained at large.

The authorities freely permitted the International Committee of the Red Cross (ICRC), the Haitian Red Cross, and other human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners and detainees with medical care, food, and legal aid. The Director General of the HNP and the DAP cooperated with the ICRC and the UNDP.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, security forces continued to employ both practices. The Constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or on the basis of a written order by a legally competent official, such as a justice of the peace or magistrate. The authorities can only execute these orders between 6:00 a.m. and 6:00 p.m. and must bring the detainee before a judge within 48 hours of arrest. In practice, officials frequently ignored these provisions. There were also instances of arrests by security forces and local officials lacking proper authority; mayors and members of local CASECs sometimes arrested persons in under-policed rural areas. Judges often issued arrest warrants with little or no evidence.

The HNP is officially an autonomous civilian institution; however, despite a cadre of competent and committed officers trained by U.S., French, and Canadian authorities, HNP officials at all levels were implicated in corruption and narcotics trafficking (see Section 3). While some new cadets entered through a competitive selection process, the Government appointed more than half of the new recruits based on political and personal favoritism. In the spring, the police academy graduated more than 800 police officers, including a record number of female officers. The HNP failed to pursue criminals, promoting a growing condition of judicial impunity. The Special Brigades are small detachments of regular policemen attached to certain commissariats throughout the country. These units, which have no special tactical training, are equipped with assault rifles and dressed in black T-shirts that read "BS." Their job is to provide defense for the commissariats or fill in for SWAT in certain situations until SWAT teams can arrive.

Killings and other abuses (see Section 1.a.) involving civilian attaches in police commissariats increased during the year. Attaches have their roots in the launch of the zero tolerance operation in June 2001. They are not members of the police force, nor have they received any official training at the police academy; rather they act as special units of armed civilian thugs and operate in police stations of large urban areas. They also often provide special security for key political figures. Attaches function under the direct control of the chief commissioner of a police station and are given special identification cards. The most notable commissariats for attache activity were Delmas 33, Carrefour, Cite Soleil, Port-au-Prince, Petionville, Gonaives, Cap-Haitien, and Hinche.

Certain police jurisdictions routinely disregarded the 48-hour requirement to present detainees before a judge, and some detainees were held for years in pretrial detention. Although the 48-hour rule was violated in all parts of the country, it was most often and most flagrantly ignored in Jeremie, Cap-Haitien, Petionville, and the Delmas commissariat of Port-au-Prince. Police or other government officials often apprehended persons without warrants, or on warrants not issued by a duly authorized official. Moreover, arrests sometimes were made on charges such as sorcery or debt with no basis in law. The authorities frequently detained individuals on unspecified charges or pending investigation. The Government often resorted to arrest and detention on false charges or on the charge of "plotting against the security of the State," particularly in political or personal vendettas. Detainees were generally

allowed access to family members and a lawyer of their own choosing. Many detainees could not afford the services of an attorney, and the Government did not provide free counsel. Bail is available at the discretion of the investigative judge. Bail hearings are not automatic, and judges usually granted bail only for minor cases and based on compelling humanitarian grounds such as a need for medical attention.

Prosper Avril, former general and head of the military government from 1988 to 1990, remained incarcerated despite the Gonaives Court of Appeals' ruling in October 2002 that his rearrest was illegal, and which ordered his release. However, the district attorney's office in Port-au-Prince did not comply with the ruling. Avril remained incarcerated at year's end.

On March 9, women's rights activist Carline Simon and her husband Serge were brutally arrested, beaten, and held for a week without formal charges brought against them. The couple was arrested after the police rescued them from a failed kidnapping attempt. On March 10, they were transferred from Cite Soleil to the Delmas police station as State Prosecutor Josue Pierre Louis issued a temporary release order for the couple. The Delmas Police Commissioner refused to free them and a HNP spokesperson claimed they were in possession of illegal firearms; those weapons were never found. Due to immense pressure from the human rights community, Simon and her husband were released on March 13.

After spending almost 6 months in the National Penitentiary, Rosemond Jean, head of the movement to reclaim lost money from government-supported cooperatives, was released on March 31. Arbitrarily arrested without warrant in September 2002, attaches beat Jean and accused her of possessing illegal firearms and munitions. Police entered his house without a warrant, claiming that he had weapons and he was plotting against the state. No weapons were ever found in his possession. After pressure from the international community, the authorities cleared Jean of all charges and released him in March.

On February 18, former Army officers Ibert Blanc, Rosalvo Bastia, and Pastor Ceriphin Franck were arrested in the central department of Hinche without charges. On July 29, the three were transported by helicopter to Port-au-Prince. Accused of conspiring against the security of the State, they remained at the National Penitentiary awaiting trial at year's end.

Prolonged pretrial detention was a serious problem. Judicial delays left an estimated 78 percent of the country's prison population awaiting trial. The problem was most extreme in Port-au-Prince, with 88 percent of National Penitentiary inmates in pretrial detention status. Eighty-six percent of females and 95 percent of minor detainees were in pretrial detention. The prolonged detention of persons with valid release orders continued to be a problem (see Section 1.e.).

Since her July 14 arrest, Judie Roy remained incarcerated in a prison in the Port-au-Prince suburb of Petionville, accused of conspiring against the security of the State (see Sections 1.c. and 1.f.).

The Constitution prohibits the involuntary exile of citizens, and there were no reports of its use. Self-imposed internal and external exile were common among opponents of the regime.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice the judiciary was subject to significant influence by the executive and legislative branches. Years of extensive corruption and governmental neglect left the poorly organized judicial system largely moribund. Judges assigned to politically sensitive cases complained about interference by the executive branch.

At the lowest level of the justice system, justices of the peace issue warrants, adjudicate minor infractions, mediate cases, take depositions, and refer cases to prosecutors or higher judicial officials. Investigating magistrates and public prosecutors cooperate in the development of more serious cases, which are tried by the judges of the first instance courts. Thirty appeals court judges hear cases referred from the first instance courts, and the 11-member Court of Cassation, the country's highest court, addresses questions of procedure and constitutionality. In Port-au-Prince, seven judges sit on a special labor court with jurisdiction over labor disputes, but in the provinces courts of first instance adjudicate such cases.

The judicial apparatus follows a civil law system based on the Napoleonic Code; the Criminal Code dates from 1832, although it has been amended in some instances. The Constitution provides for the right to a fair public trial; however, this right was abridged widely in practice. The Constitution also expressly denies police and judicial authorities the right to interrogate suspects unless legal counsel or a representative of the suspect's choice are

present or they waive this right; this right was also abridged in practice. While trials are public, most accused persons cannot afford legal counsel for interrogation or trial, and the law does not require that the Government provide legal representation. Despite the efforts of local human rights groups and the international community to provide free legal aid, many interrogations occurred without presence of counsel. However, some defendants had access to counsel during trials. The Constitution provides defendants with a presumption of innocence and the right to be present at trial, to confront witnesses against them, and to present witnesses and evidence in their own behalf; however, in practice corrupt and uneducated judges frequently denied defendants these rights.

Systemic problems including underfunding and a shortage of adequately trained and qualified justices of the peace, judges, and prosecutors created a huge backlog of criminal cases, with many detainees waiting months or even years in pretrial detention for a court date (see Section 1.d.). There was no legal redress for prolonged pretrial detention following acquittal or dismissal of charges.

In most regions, judges lacked the basic resources to perform their duties. Professional competence was sometimes lacking as well. The qualifying yearlong course at the Magistrates' school requires no previous legal training. Judges increasingly conducted legal proceedings exclusively in Creole rather than French, but language remained a significant barrier to full access to the judicial system (see Section 5). UNDP, supported by the Government, provided additional training for many segments of the judicial system, including new judges and attorneys.

The Constitution sets varying tenure periods for judges above the level of justice of the peace. However, in practice the Ministry of Justice exercised appointment and administrative oversight over the judiciary, prosecutors, and court staff. This Ministry can remove justices of the peace and in practice has occasionally dismissed judges above this level.

The Code of Criminal Procedure does not assign clear responsibility to investigate crimes, dividing the authority among police, justices of the peace, prosecutors, and investigative magistrates. Examining magistrates often received files that were empty or missing police reports. Autopsies were conducted only rarely, and autopsy reports seldom issued. The code provides for 2 criminal court sessions ("assizes") per year in each of the 15 first instance jurisdictions for all major crimes requiring a jury trial; each session generally lasts for 2 weeks. Criminal assizes in Port-au-Prince have met only once a year since 1998.

Citizens deported to Haiti after completing prison sentences in foreign countries are detained until a family member agrees to take custody of them and their prison release order is processed, although there is no provision for such detention in the law. This generally takes 1 to 2 months, but has lasted as long as 4 months in unusual instances.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such practices; however, police and other security force elements routinely conducted searches without warrants (see Section 1.c.).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, the Government did not respect these rights in practice. Several times during the year, the Government publicly expressed support for free expression; however, there were several documented attacks on members of the press. Print and electronic media freely criticized the Government and opposition. However, in practice most media admitted to some form of self-censorship to avoid offending sponsors or the politically influential.

There were two French-language newspapers in the country, Le Nouvelliste and L'Union, with a combined circulation of less than 20,000 readers. L'Union is a government-run newspaper; its editor was the Secretary of State for Communication. Le Nouvelliste and some irregularly printed papers were frequently critical of government policies. There was virtually no Creole-language press.

With a literacy rate of approximately 52 percent and limited access to television, the most important medium is radio, especially those stations broadcasting in Creole. There were 275 private radio stations, with 43 in the capital

alone. Most carried a mix of music, news, and talk show programs that many citizens regard as their only opportunity to speak out on a variety of political, social, and economic issues. Uncensored foreign satellite and cable broadcasts were available but limited in impact: most citizens could not afford televisions. The few stations carrying news or opinion broadcasts freely expressed a wide range of political viewpoints.

Although most radio stations and other forms of telecommunications were nominally independent, they are subject to a 1997 law designating the State sole owner and proprietor of the airwaves. The State leases broadcast rights to private enterprises, retaining preemption rights in the event of a national emergency, including natural disasters. The Government did not exercise this right in practice.

There were several attacks on, or threats against, journalists during the year, and the legal system provided limited protection or redress. Journalists were accused of destabilizing the Government and often subjected to anonymous threats of violence, including threats of kidnapping and murder. Police and government officials often failed to protect journalists during civil unrest. The NGO Reporters Without Borders and local journalists' associations continued to protest attacks in prior years and called on the Government to provide security. The Government failed to do so, despite frequent expressions of support for free expression. Pro-government OPs (loosely organized neighborhood-based groups that often functioned as politically-affiliated gangs) sometimes threatened journalists covering protests, civil unrest, and other large group events. In such cases, the Government's inability or unwillingness to provide adequate security to media outlets and journalists contributed to an increased sense of vulnerability among members of the media who criticized the Government or Fanmi Lavalas.

According to a report released on August 15 by the Committee to Protect Journalists, in less than 3 years, 2 journalists, Brignol Lindor and Jean Dominique, had been killed and nearly 30 others had fled into exile. At year's end, only one person remained in prison awaiting trial for the December 2001 killing of Petit-Goave journalist, Brignol Lindor (see Section 1.a.).

On February 4, assailants shot Reverend Manes Blanc, the director of Radio Shekina in St. Marc, twice in the stomach. His assailants said he was too vocal in his anti-Lavalas comments, and that they intended to kill him. The gunshots were not fatal, and no one was charged with the crime.

On February 14, veteran reporter Goudou Jean Numa was warned about returning to his home as unknown persons had visited earlier in the day inquiring about him. Arsonists returned later and set fire to the reporter's vehicle. Goudou left the country.

On February 18, pro-Lavalas forces burned the home of Voice of America stringer Montigene Sincere and arrested, then released, his two sons, who were also journalists. Sincere was attacked in the past by persons believed to be acting on behalf of FL.

That same day, Radio Metropole, a pro-opposition radio station in Port-au-Prince, observed a 24-hour pause in news reporting to protest attacks on several of its staffers in weeks prior. Two days before, shots were allegedly fired at the home of the mother of Radio Metropole political columnist Nancy Roc.

On October 28, several armed and masked individuals in a truck with government service license plates opened fire on Radio Caraibes in Port-au-Prince. The attack occurred the day before a court hearing on the case of a Radio Caraibes journalist who was killed in a traffic accident involving a vehicle and employees from the Interior Ministry. No one was injured in the attack. While he did not denounce the attack, government spokesperson Mario Dupuy promised an investigation of the event. The case remained unsolved at year's end.

Radio Maxima in Cap-Haitien, a prominent anti-Aristide station was attacked a number of times since December 2002, leaving all three of its transmitters destroyed. Staff also reported verbal threats against their lives before and after the anti-Lavalas demonstrations planned for October 24-25 in Cap-Haitien.

In September 2002, Radio Kiskeya temporarily went off the air after receiving threats that an OP was going to attack the station. On April 30, Liliane Pierre Paul, the Program Director for the station, received a threatening letter with a bullet inside. The letter instructed her to broadcast a message on the radio by May 6 calling for French President Chirac to pay financial reparations to Haiti, threatening to kill French citizens in the country and Pierre Paul if she did not oblige. The letter was signed by members of various OP Lavalas groups, including the group believed to be responsible for the murder of Brignol Lindor. Nothing happened on May 6.

On March 20, the investigative report by Judge Sainvil on the 3-year-old murder of radio journalist Jean Dominique was released. The report indicted six men who have been in prison for 2 years on unrelated charges (see Section

1.a.). In December 2002, armed men attempting to enter the home of Michele Montas, Dominique's widow, shot and killed Maxime Seide, her bodyguard. Montas left the country. On April 3, the third anniversary of Dominique's death, major radio and print media staged a blackout refraining from all news reporting, broadcasts, and analyses to demonstrate what a country would become without a free press.

Foreign journalists generally traveled without hindrance from the authorities. The Government did not censor books or films.

The Government did not limit access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, the Government's increasing repression of planned events and periodic prohibition of demonstrations flagrantly ignored that freedom. Although some organizations were able to exercise this right without hindrance throughout the year, numerous violations of this freedom frequently occurred in the capital as well as in the provinces. Authorities frequently failed to provide police protection for opposition parties, student groups, and women's groups conducting peaceful demonstrations. Authorities often transported pro-Aristide supporters, armed and unarmed, to announced opposition events and failed to arrest them for throwing rocks or bottles at the demonstrators and brutally beating them with clubs.

The HNP and governmental authorities continued to suppress citizens' fundamental rights to demonstrate, protest, and express their opinions. There were a series of general strikes in January promoting a variety of causes that often ended in confrontation or death (see Section 1.a.). Transportation unions and the opposition called for strikes and demonstrations throughout the month of January to protest the price increase for fuel and continued to urge President Aristide to resign.

Activists and women's organizations took to the streets of Port-au-Prince on March 10 to commemorate International Women's Day and to call for justice in cases where women's rights had been violated. The HNP attempted to break-up the demonstration, claiming that the women were not authorized to hold a march. Police confiscated the keys to the vehicle carrying the sound system and cut the connection from the system to the generator, yet the women were able to continue marching without further incident.

For several years, the Central Plateau and the city of Hinche have been plagued with political violence. In March, the pro-opposition Papaye Peasants Movement cancelled its march, marking its 30th anniversary in Hinche, due to warnings of security problems, and read its resolutions on the radio instead. Armed Lavalas OP's, unaware of the cancellation, blocked the road between Hinche and Papaye and assaulted anyone who attempted to travel that road. They injured more than 10 persons in the attacks.

On July 12, the civil society Group 184 (G184) led a "Caravan of Hope" on a march into the pro-government stronghold of Cite Soleil. The group planned to unveil a new social contract, but the event turned violent when the meeting place was overrun by a mob of pro-Lavalas chimeres. Police put forth little effort in stopping the chimeres and appeared to have incited hostilities. Personnel from foreign embassies and the OAS were on hand to observe the rally and were unharmed.

On August 30, in the north, Cap-Haitien police, apparently responding to government instructions, violently repressed the opening event of a planned opposition/civil society "Weekend of Solidarity," using tear gas and automatic weapons to disperse the peaceful open-air meeting. Pro-government popular organizations used barricades of burning tires to block access. The march scheduled for August 31 was then cancelled.

On September 14, another opposition march in Cap-Haitien was broken up a half a kilometer from its starting point by another group of chimeres throwing rocks and bottles at 2-5,000 demonstrators. Police launched tear gas at both the Lavalas aggressors and then at the opposition crowd. The confrontation occurred after police allowed 1,000 pro-FL counter-demonstrators to breach their assigned route and confront the oncoming opposition demonstration.

On October 25, in Cap-Haitien, pro-Lavalas chimeres constructed barriers and blocked road and air entry into the city in anticipation of an opposition march planned for October 26. Despite police efforts at dismantling the barricades, rock-throwing chimeres went on a rampage through the city effectively causing the opposition to cancel

the demonstration.

On October 29, two nonpolitical demonstrations staged by women's groups, one to protest the climate of violence in the country and one to plant trees, were broken up by Lavalas chimeres. In both cases, police failed to prevent the disruption of the demonstrations, and little afterward to constrain the chimeres.

The G184 planned November 14 rally, to discuss its social contract and to present its political proposal, in downtown Port-au-Prince foundered in the face of a governmental campaign of obstruction and repression. Long before the rally was to begin, police impeded access to the area by constructing roadblocks and searching private vehicles. The rally failed to commence as OP members attacked the G184's stage equipment while police arrested 25 G184 members, including the brother-in-law and nephew of G184 leader Andy Apaid. As G184 members tried to move to the staging point, they were confronted by rock-throwing pro-Lavalas OP members. Crowd-control police intervened using tear gas and firing warning shots into the air. In an effort to avert further violence, Apaid called an end to the gathering in the early afternoon as OP members chased G184 partisans from the scene. Most of the G184 members were released on November 18, but the Apaid family members remained in prison until December 1 on false weapons charges.

On December 5, pro-Lavalas chimeres violently disrupted an anti-Aristide demonstration planned by State University students. An estimated 30 students were injured, at least 10 by gunfire. The University Rector suffered 2 broken kneecaps as a result of clubbing by the chimeres. Police on the scene were complicit with the chimeres throughout and did nothing to curb the violence, reacting only when the Rector was clubbed, and only then assisting in the evacuation of the students. Human rights groups and government officials widely criticized the attack, which led to the resignation of the Minister of Education, Marie-Carmel Paul Austin.

On December 8, several thousand students demonstrated in Gonaives, demanding justice for Port-au-Prince university students attacked by pro-Lavalas chimeres on December 5 (termed "Black Friday"). Police used tear gas to disband the demonstrators and indiscriminately fired into the crowd injuring several civilians and two police officers. One journalist on the scene reported that police shot and injured several journalists attempting to verify how many protesters died during the event.

On December 12, State University student protesters in Port-au-Prince joined forces with Apaid's 184 and members of the city's business, legal, academic, and artisan community to launch a massive anti-government demonstration. Early morning police barricades and burning tires erected by chimeres, some carrying arms, attempted to thwart the crowds that had gathered in various sections of the city. Police fired into the air and used tear gas in an attempt to disperse the demonstrators, who regrouped later in another location; this pattern continued throughout the day. There were no reported fatalities.

Following a student demonstration on December 15, HNP officers injected 21-year-old Josue Alcenat with an unknown substance while holding him at the police station in Canape Vert section of Port-au-Prince. Alcenat spent 5 days in a local hospital undergoing tests to determine the nature of the substance. Alcenat was sent to a medical facility abroad to undergo further testing after the hospital was unable to arrive at any concrete conclusion.

On December 17, small groups of students attempted to mobilize in Port-au-Prince, but low numbers and aggressive police intervention combined to prevent a major demonstration. Lavalas chimeres reportedly opened fire on several journalists and protesters in different parts of the city as police used large amounts of tear gas to disperse students assembled at various points. Simultaneously, police employed similar tactics to halt anti-government demonstrations in cities outside the capital, such as Jacmel, St. Marc, and Cap-Haitien. During one protest in Trou de Nord, police fired into a crowd attempting to break-up a protest and killed a young girl. Protesters responded by attacking several government office buildings and burning the house of the police officer who shot the girl.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. The Penal Code requires prior government approval for any association of more than 20 persons that seeks tax benefits and official recognition from the Government.

c. Freedom of Religion

The Constitution provides for the right to practice all religions and faiths, provided that practice does not disturb law and order, and the Government generally respected this right in practice.

In many respects, Roman Catholicism retained its traditional primacy among the country's religions. Precise figures

were difficult to obtain, but it was estimated that 80 percent of the population were Catholic. However, Protestant denominations (primarily Methodist and Baptist) were growing in terms of number of active members, in comparison to the Catholic Church membership. A large segment of the population practiced Christianity as well as Voodoo, a traditional religion derived in part from West African beliefs. While there were associations of Voodoo practitioners and priests, there was no organized hierarchy. Official recognition by the Ministry of Religious Affairs gives religious organizations legal standing and tax-exempt status, and extends civil recognition to church documents. In 2001, the Ministry of Religion officially recognized the first Voodoo church, the Eglise Vodou d'Ayiti, and in April, the Government officially recognized Voodoo as a religion.

Accusations of sorcery, particularly in rural areas, led to mob violence and killings, and Voodoo practitioners were targeted in some cases.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice.

An unknown number of undocumented migrants left the country by sea or land to seek better economic opportunities. The Government's National Migration Office (ONM) was responsible for assisting citizens repatriated from other countries and frequently provided small sums of money to repatriated migrants for transportation. During the year, the ONM assisted 17,323 repatriated citizens. There were reliable reports of family separation and maltreatment of Haitians by Dominican soldiers during the year. There were no credible reports of government mistreatment of repatriated migrants.

The law includes provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status on asylum.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully. In practice, the political system remained in transition from a dictatorial system to a more open and competitive one, and the political crisis stemming from flawed 2000 elections continued to hinder the implementation of this right. The dominant Fanmi Lavalas (FL) political party, which controls all branches of government, manipulated legislative elections in May 2000 and exaggerated electoral participation in the November 2000 presidential elections. OAS efforts since then to resolve the crisis have been unsuccessful.

In September 2002, the OAS unanimously approved Resolution 822, delinking international economic assistance from the signing of an FL/Convergence Democratique (CD) accord between FL and opposition parties. It called on the Government to implement previous OAS resolutions, expressed the expectation that the Government would hold legislative and local elections in 2003, and called on the Government to create a favorable security climate, implement a disarmament plan, strengthen independent police and judicial institutions to combat impunity, and participate in the formation of a credible Provisional Electoral Council by November 4, 2002, and an Electoral Guarantees Commission by December 4, 2002. The resolution broadened the mandate of the OAS Special Mission to assist the Government in undertaking its obligations and to monitor and evaluate those efforts. By November 20, 2002, seven of the entities comprising the CEP had nominated a representative, although not officially sworn them in. CD, the main opposition block, had not put forth a representative.

OAS policy remained focused on implementation of Resolution 822, the main thrust of which was the formation of a legitimate CEP, which was to be charged with planning local, municipal, and legislative elections during the year. However, elections did not take place, largely due to the inability to form the consensus CEP.

The Government had invited a three-member OAS special inquiry commission to investigate the 2001 attacks on members of opposition parties, which were triggered by an apparent attack on the presidential palace. Under international pressure, the Government agreed to pay reparations to the victims and publish a report of actions taken against persons implicated in the events. An agreement was reached between the two largest opposition political parties, the Struggling People's Organization (OPL) and the New Christian Movement for a New Haiti (MOCHRENA), and the Government paid reparations during the year.

Resolution 822 also called for a thorough inquiry into all politically motivated crimes and cited the need to strengthen independent police and judicial institutions to combat impunity. In particular, the OAS requested the arrest of Amiot "Cubain" Metayer, also the leader of the Cannibal Army in Gonaives, for his part in the violence of December 2001. After failing for 7 months to rearrest Metayer, and following the exile of the judge assigned to the case due to threats and pressure, the State Prosecutor's office in Gonaives exonerated Metayer and declared his initial arrest illegal on May 14. On September 23, Metayer's body was found in St. Marc. Although the Government promised a full investigation, many opposition groups, and even Metayer's own Cannibal Army, accused authorities of ordering the murder to ensure Metayer's silence about official involvement in the violence.

On the occasion of the high-level OAS/CARICOM meeting on March 19-20, the OAS emphasized replacing the leadership of the HNP for the Government to further demonstrate its willingness to combat impunity. On March 25, Jean Claude Jean-Baptiste replaced Jean Nesly Lucien as Director General (DG) and Evans Pierre Sainturne replaced Victor Harvel Jean-Baptiste as HNP Chief General Inspector. These appointments immediately sparked controversy among human rights organizations and the international community because of numerous and credible reports of criminal activity by both officials. There was photographic evidence of Jean-Baptiste participating in the brutal beating and burning murder of Pastor Sylvio Claude, leader of the Parti Democrate Chretien Haitien, one of the political parties that ran against FL in the 1990 elections. Additionally, Jean-Baptiste was named as DG without consultation with the OAS, as required by Resolution 822.

Under significant international pressure, the authorities replaced Jean-Baptiste with Jean-Robert Faveur, who was sworn in on June 6, as DG of the HNP. On June 21, Faveur resigned his position, citing government intimidation and interference in his decision-making, and his unwillingness to execute illegal orders. Faveur fled the country fearing retribution for public statements he made on the radio about his experience as DG. In July, former civil court senior judge (Doyenne) Jocelyne Pierre replaced Faveur as DG. Sainturne was implicated in the 2001 murder attempt on the investigating judge of the Jean Dominique murder investigation, but remained the Chief General Inspector at year's end.

Affiliation with the FL was increasingly required for government employment, and political patronage was widespread. It was common for political appointees to use their positions for personal enrichment. Many of the 2,500 to 3,500 officers on the official HNP payroll were ghost officers who did not actually work (see Section 1.d.).

The Government continued to accuse opposition supporters of plotting against the State. Members of opposition parties and their supporters faced the constant threat of arrest (see Section 1.d.). Most remained in jail for months despite the widespread perception that the charges were without foundation.

On December 14, two prominent critics of the Government, Senator Pierre Prince Sonson and Catholic Bishop Pierre Andre Dumas, were shot at in what appeared to have been murder attempts or intimidation. Another vocal critic of the Government, Evans Lescouffair, also reported a December 11 attempt on his life. An opposition politician accompanying Prince Sonson at the time of the attack identified Lavalas Deputy James Desrosins as driver of the vehicle used in the attempt on Sonson's life. The attack on Sonson came days after a Lavalas Deputy issued an incendiary call to arms to Lavalas supporters.

There are no legal impediments to women's participation in politics or government. The monetary deposit required of female candidates for political office (if sponsored by a recognized party) is one-half that required of male candidates. At year's end, 3 of the 81 deputies were women, and there were 6 women among the 19 senators. Five of the 16 ministers in the Government were women.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally acknowledged their views but often failed to implement recommendations. The Government permitted special missions and the continued presence of U.N. bodies and other international organizations such as the ICRC, the U.N. Independent Expert on Human Rights, the UNDP, the IACHR, and the OAS Special Mission's human rights office. However, threats and intimidation from unknown sources against domestic NGOs continued during the year.

In a report released before the April 17 session of the U.N. Human Rights Commission, independent observer Louis Joinet cited the steady decline in the human rights situation since his September 2002 visit and recommended establishment of an office of the U.N. High Commissioner for Human Rights in the country. Joinet noted that security had deteriorated and violence against human rights defenders increased; arrests, illegal

detentions of political activists, police brutality, and cases of intimidation had been widely publicized; and the judicial system continued to be deficient as judges had been subjected to attacks, causing some to go into exile. Joinet's report also recommended a national commission on reparations for the victims of the 1991 coup d'etat and legislative reform of three bills concerning the judiciary as a means of combating impunity. At year's end, the proposed office had not been established, but the U.N. High Commission on Refugees (UNHCR) opened an office in the neighboring Dominican Republic, which began to handle cases of Haitian political asylum seekers.

Human rights organizations increasingly turned to issues that they had not previously addressed, including prison conditions, the widespread lack of health facilities, and impunity for criminals. Local officials often attempted to control and sought money from domestic human rights groups, as well as other local NGOs. Especially in Gonaives, the Les Cayes region, and in the Central Plateau, local officials and their supporters often harassed, refused permits to assemble, and threatened NGOs.

No investigations were opened in the 2002 cases of Patrick Merisier, a human rights field monitor who was shot, or human rights attorney Fleury Lysias who was illegally arrested and beaten.

At the national and international levels, human rights organizations have been active and effective in monitoring human rights issues, and met frequently with government officials. Human rights organizations, including the Platform of Haitian Human Rights Organizations, the NCHR, the Lawyers' Committee for the Respect of Individual Rights, the Ecumenical Center of Human Rights, and the Catholic Bishops' National Commission on Justice and Peace, made frequent media appearances and published objective reports on violations. All reported receiving threats as a result of their work.

In February, Marie-Yolene Gilles, coordinator of NCHR's Human Rights Monitoring Program, was targeted by a campaign of intimidation. While working on the December 2002 triple murder case of the three brothers killed by police in Carrefour (see Section 1.a.), Gilles received phone calls with threats to kill her and her family and burn down her home. She was threatened again in August for her work investigating attaches in police stations.

The Office of the Protector of Citizens (OPC), an ombudsman-like office provided for by the Constitution, received complaints of abuse at all levels of government. The Government did not directly impede OPC investigations but did not always respond to its requests for information. In the past, local human rights organizations did not view the office as an advocate or interlocutor with the Government and often did not file complaints with the OPC, reporting that OPC did not play an active role following up on human rights complaints. This perception changed, however, with the appointment of Necker Dessables, a respected human rights advocate, as the OPC ombudsman in 2002. Relations between the OPC and major human rights organizations such as the Platform for Human Rights and the Lawyers Committee for the Respect of Individual Rights improved and continued to be positive. The OPC had budgetary problems and employed only four investigators and was therefore unable to be very active in investigations of human rights abuses.

The Parliament's Justice and Human Rights Committee did not have a high profile and focused largely on judicial issues.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution does not specifically prohibit discrimination on the grounds of race, sex, disability, language, or social status. It does provide for equal working conditions regardless of sex, beliefs, or marital status. However, there was no effective governmental mechanism to administer or enforce these provisions. Societal discrimination occurred against persons with HIV/AIDS, particularly women, but educational programs and HIV/AIDS activists were fighting to change that stigma.

Women

The law provides penalties for rape and domestic violence; however, the Government did not enforce these provisions adequately. According to women's rights groups, rape and other abuse of women was common, both within and outside marriage. Women's shelters and organizations reported that local armed thugs frequently raped and harassed girls and women in the "quartiers populaires" (slums) like Cite Soleil and Martissant. Police authorities rarely arrested the perpetrators or investigate the incident, and the victims sometimes suffered further harassment in retaliation. There were no government-sponsored programs for victims of violence. The Criminal Code excuses a husband who murders his wife or her partner upon catching them in the act of adultery in his home, but a wife who kills her husband under similar circumstances is not excused.

The law does not specifically prohibit sexual harassment, although the Labor Code states that men and women have the same rights and obligations. Sexual harassment of female workers was a problem, especially in the assembly sector (see Section 6.b.).

Women do not enjoy the same social and economic status as men. In some social strata, tradition limits women's roles. A majority of peasant women remained in traditional occupations of farming, marketing, and domestic labor. Very poor female heads of household in urban areas also often find their employment opportunities limited to traditional roles in domestic labor and sales. Laws governing child support recognize the widespread practice of multiple-father families but were rarely enforced. Female employees in private industry or service jobs, including government jobs, were seldom promoted to supervisory positions. However, well-educated women have occupied prominent positions in both the private and public sector in the past several years.

The Ministry of Women's Affairs is charged with promoting and defending the rights of women and ensuring that they attain an equal status in society, but had few resources at its disposal and was able to accomplish little in this regard.

Domestic women's rights groups were small, localized, and received little publicity.

Children

Government health care and education programs for children were inadequate. Malnutrition was a problem; approximately 23 percent of all children under 5 were chronically malnourished. The Government has a school nutrition program, administered through the Office of National Development and supported by foreign donors. Through this program, health clinics and dispensaries have begun to distribute donated food to children.

The Constitution and the law provide for free and compulsory primary education; however, in practice most rural families had no access to public schools. The costs of school fees, books, materials, and uniforms, even in public schools, were prohibitive for most families, and an estimated 90 percent of schools were private. Schools were dilapidated and understaffed. According to the Government, 40 percent of children never attend school; of those who do, less than 15 percent graduate from secondary school. The Ministry of Education estimated primary school enrollment at 65 percent. Poorer families sometimes rationed education money to pay school fees only for male children.

Child abuse was a problem. Government-sponsored radio commercials urged parents not to abuse their children physically or mentally. There was some anecdotal evidence that in very poor families, caretakers deprive the youngest children of food to feed older, income-generating children.

In early January, a 10-year-old girl was lured into an alley, raped, and became pregnant by a 16-year-old male. On April 16, the victim's family filed a complaint against the male with the Justice of the Peace of Carrefour. On January 17, police arrested him and released him the following day, but then rearrested him on April 28 after the family filed a complaint with the State Prosecutor's office. After discussion between the assistant prosecutor and the defendant's lawyer, the defendant was released, provided he would return for the hearing in May; he never appeared and neither did the Assistant Prosecutor. The lead State Prosecutor highlighted the apparent collusion between the defendant's lawyer and the assistant prosecutor. Following significant press coverage and interventions by human rights and women's organizations, the defendant was arrested for a third time on May 16. He spent only a few days in prison at Fort National and was subsequently released due to his age. The prosecutor's investigation of the case continued at year's end.

The law prohibits corporal punishment of children, and all schools must post clearly their disciplinary policies. It also called for the establishment of a commission to determine appropriate school disciplinary measures. In practice, corporal punishment was accepted as a form of discipline.

Port-au-Prince's large population of street children included many domestic servants, or "restaveks" ("to stay with" in Creole) who were dismissed from or fled employers' homes (see Section 6.f.). The Ministry of Social Affairs provided some assistance to street children.

Several international and local NGOs worked on children's issues. UNICEF and Save the Children Canada and UK, in conjunction with local NGOs such as the Haitian Coalition for the Defense of the Rights of the Child (COHADDE), promote children's rights by conducting studies of children's issues, most notably a study on child domestic labor (see Section 6.f.), and awareness raising activities in the country.

Persons with Disabilities

The Constitution provides that persons with disabilities shall have the means to ensure their autonomy, education, and independence. However, there was no legislation to implement these constitutional provisions or to mandate provision of access to buildings for persons with disabilities. Given the severe poverty in which most citizens live, those with disabilities faced a particularly harsh existence even though they did not face overt mistreatment. Disabled beggars were common on the streets of Port-au-Prince and other towns.

National/Racial/Ethnic Minorities

Approximately 99 percent of Haitians are descendants, in whole or in part, of African slaves who won a war of independence from France in 1804. The remaining population is of European, Middle Eastern, North American, or Latin American origin. The law makes no distinction based on race. However, longstanding social and political animosities were often tied to cultural identification, skin color, and overlapping issues of class in a starkly nonegalitarian society. Some of these animosities date back to before the country's revolutionary period.

Racial distinctions tend to parallel social and economic strata. Mulattos generally belong to the wealthiest classes of society. Mulattos historically have been targets of sporadic attacks and kidnappings because they were perceived as wealthy.

The Government recognizes two official languages: Creole, spoken by virtually all Haitians; and French, limited to approximately 20 percent of the population including the economic elite. Lack of French-language skills limited access to political and economic opportunities for the majority of the population. Although Creole was used in parliamentary debate in the Lower House of Parliament, the Government prepared most official documents only in French. Language also remained a significant barrier to full access to the judicial system (see Section 1.e.). Despite the Government's literacy promotion, many Creole speakers were illiterate.

Section 6 Worker Rights

a. The Right of Association

The Constitution and the Labor Code provide for the right of association, which was generally respected in practice; however, the Labor Code dates from earlier governments and is far more restrictive. For instance, there is no legislation protecting the right of public employees to organize.

The law protects union activities and prohibits a closed shop. For legal recognition the law also requires that a union, which must have a minimum of 10 members, register with the Ministry of Labor and Social Affairs within 60 days of its formation. The Labor Code does not require prior approval before any association is established. Unions are subject to the same registration requirements as other associations (see Section 2.b.). The law prohibits employers, management, and anyone who represents the interests of employers from joining a union.

In theory unions are independent of the Government and political parties. Nine principal labor federations represented approximately 5 percent of the total labor force of approximately 2.8 million persons, including the approximately 2 to 3 percent working in the industrial sector. Union membership decreased significantly, but unions remained active in the public sector. Some union representatives asserted that union activists not affiliated with the Government felt themselves forced into self-exile.

Several unions have grievances pending against the Government over unfair labor practices and other worker rights violations before the International Labor Organization (ILO) and the International Confederation of Free Trade Unions.

Labor unions reported several cases of threats and arrests during the year. Leaders of several major labor confederations reported receiving threats and demands to support the FL party. On July 29, armed men visited the home of Petit-Frere Jean-Louis, Secretary General of the General Independent Organization of Haitian Workers. Jean-Louis had spoken out against the corruption among Lavalas officials in Port de Paix and in the Northwest Department. He was not home at that time but upon hearing of the incident, he left Port de Paix and went into hiding in Gonaives.

On July 30, the office of Fignole St. Cyr, Secretary General of the Autonomous Central of Haitian Workers, was the target of similar harassment. While he was out, armed thugs entered St. Cyr's office and demanded his staff divulge his arrival time. The truck circled the office for the remainder of the morning but eventually left when St. Cyr

failed to appear. St. Cyr had taken part in the G184 demonstration in Cite Soleil (see Section 2.b.) and had criticized the Government on unemployment, the political crisis, and interference with the press.

Union leaders asserted that some employers in the private industrial sector dismissed individuals for participation in union organizing activities. In 2000, the ILO criticized the Labor Code for its failure to include a specific provision providing protection against anti-union discrimination at the time of hiring.

Unions may freely form or join federations or confederations and affiliate with international bodies. Each of the principal labor federations maintained some affiliation with various international labor organizations.

b. The Right to Organize and Bargain Collectively

The Labor Code protects trade union organizing activities and stipulates fines for those who interfere with this right but does not provide for reinstatement of workers fired for trade union activities. No fines were issued during the year, or in previous years. Unions generally were free of government and employer interference to pursue their goals, although the Government made little effort to enforce the law.

Organized labor activity was concentrated in the Port-au-Prince area, in state enterprises, and in the civil service. High unemployment rates and anti-union sentiment among some factory workers and most employers limited the success of union organizing efforts.

Collective bargaining was nonexistent, and employers set wages unilaterally. The Labor Code does not distinguish between industries producing for the local market and those producing for export. Employees in the export-oriented assembly sector enjoyed better than average wages and benefits. However, frequent verbal abuse and intimidation of workers and organizers were problems in the assembly sector. Female workers in the assembly sector reported that some employers sexually harassed female workers with impunity. Women also reported that while most assembly sector workers were women, virtually all supervisors were men. Workers had access to labor courts (Tribunaux de Travail) set up to resolve common labor-management disputes; however, the courts' judgments were not enforced. The courts function under the supervision of the Ministry of Labor and Social Affairs and adjudicate minor conflicts, but unions stated that the process was inefficient. Seven labor courts operate in Port-au-Prince, and in the provinces plaintiffs utilize municipal courts.

The Labor Code provides for the right to strike, except for managers, administrators, other heads of establishments, and public utility service workers. The Labor Code defines public utility service employees as essential workers who "cannot suspend their activities without causing serious harm to public health and security." There were few public sector strikes during the year. In May 2002, hospital residents went on strike to protest lack of supplies and the diversion of existing supplies to administrators. When the Government intervened and provided additional materials, residents resumed work.

There are no export processing zones (EPZs) outside of the metropolitan area. Legislation governing free trade zones provide that the Labor Code applies in the EPZs, and the Government signed an agreement with Grupo M, a Dominican textile company, to build a production facility in a newly established free trade zone on the border near Ouanaminthe. On October 9, the International Finance Corporation (IFC) approved a loan to the company; its provisions stipulated a social compensation plan for farmers and landowners displaced by the project. The IFC called for independent investigations into allegations of Grupo M abuse of workers and union organizers. Nevertheless, Batay Ouvriye, an organization of peasant workers, strongly opposed the project, and progress has stalled pending legislative authorization of the land concession, which had not been granted at year's end.

c. Prohibition of Forced or Bonded Labor

The Labor Code prohibits forced or bonded labor for adults and minors; however, the Government failed to enforce this law for children, who continued to be subjected to forced domestic labor as *restaveks* in urban households, sometimes under harsh conditions (see Sections 5 and 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment

The minimum employment age in all sectors is 15 years, with the exception of domestic service, for which the minimum is 12 years of age. There is also a legal provision for employment of children between the ages of 12 and 16 as apprentices. The Labor Code prohibits minors from working under dangerous conditions and prohibits night work in industrial enterprises for minors under 18. Fierce adult competition for jobs ensured child labor was not a factor in the industrial sector; however, children under the age of 15 commonly worked at informal sector jobs to

supplement family income. Children also commonly worked with parents on small family farms, although the high unemployment rate among adults kept children from employment on commercial farms in significant numbers. Government agencies lacked the resources to enforce relevant laws and regulations effectively. According to COHADDE, children worked primarily as domestic servants (*restaveks*); however, some worked on the street as vendors or beggars, and some were involved in prostitution.

The Government has not ratified and does not adhere to ILO Convention 182 on elimination of the worse forms of child labor. It has not defined "worst forms of child labor" or "hazardous work."

The Government designated the Ministry of Labor and Social Affairs' Social Welfare and Research Institute (IBESR) to implement and enforce child labor laws and regulations. The Government has begun to place a high priority on the eradication of child domestic labor (see Section 6.f.). Despite the Government's efforts, the budget for the Ministry remained below what is needed to fund adequately programs to investigate exploitative child labor cases throughout the country.

The IBESR coordinated efforts with the Ministries of Justice, Education, and Foreign Affairs, as well as local and international agencies, to formulate and enforce child labor policies. The Government signed a Memorandum of Understanding with ILO's International Program for the Elimination of Child Labor (IPEC) in 1999. IPEC began a Child Labor Project in 2000, which was scheduled to end in December 2002 but continued through the spring and developed a framework focusing on institutional capacity building, prevention through awareness-raising, and direct assistance to victims of child labor. A much-lauded government-sponsored hotline for children in crisis operated only during regular business hours and had limited resources and access to safe shelters. In August 2002, NCHR-New York inaugurated a program to prevent the *restavek* practice, improve living conditions for and rescue these children, and reintegrate them into society (see Section 6.f.).

e. Acceptable Conditions of Work

The legal minimum daily wage, established in 1995 by the Tripartite Commission of Salaried Workers, whose six members were appointed by the President (two representatives each of labor, employers, and government), is approximately \$0.96 (36 gourdes). This wage was insufficient to provide a decent standard of living for a worker and family. Some workers were paid on a piece-rate basis and may earn more than the minimum wage. The majority of citizens worked in the informal sector and subsistence agriculture, where minimum wage legislation does not apply and wages of \$0.40 (15 gourdes) a day were common. Many women worked as domestic employees, where minimum wage legislation also does not apply.

The Labor Code governs individual employment contracts. It sets the standard workday at 8 hours and the workweek at 48 hours, with 24 hours of rest on Sunday. However, HNP officers worked 12-hour shifts 6 days per week, in apparent violation of the Labor Code. The code also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines. However, the Ministry of Social Affairs did not enforce work hours or health and safety regulations.

The assembly sector published a voluntary code of conduct in 1999, committing signatories to a number of measures designed to raise industry standards, including payment of the minimum wage and the prohibition of child labor. Employers in the assembly sector generally paid the minimum wage or higher. In this sector, working conditions were also generally better and there were no reports of child labor.

There were no formal data, but unions alleged that job-related injuries were prevalent in the construction industry and public works sectors. With more than 50 percent of the population unemployed, workers were not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.

f. Trafficking in Persons

The Government passed a law in June prohibiting trafficking in women and children; however, trafficking in women and children was a problem. Internal trafficking of children for domestic labor remained a problem in the country. On October 8, a new, more comprehensive law was introduced before Parliament that would render trafficking in all persons illegal. The Chamber of Deputies approved it and it was waiting Senate passage at year's end.

Haitians trafficked overseas were sent largely to the Dominican Republic, the U.S., Europe (mainly France), and Canada. The results of the most recent study of trafficking across the border conducted by UNICEF in August 2002 reported that between 2,000 and 3,000 Haitian children were trafficked to the Dominican Republic each year. The

findings were the result of a joint UNICEF/International Organization for Migration study. However, most trafficking occurs within the country's borders and involves children. In June, the Government created a Brigade for the Protection of Minors (BPM), a special unit under the HNP charged with investigating cases of child trafficking and monitoring movement of children across the Haitian/Dominican border. The BPM was functional; however, resource issues remained a barrier to its operational capacity.

Rural families continued to send young children to more affluent city dwellers to serve as unpaid domestic labor in a practice called *restavek*. In May, the country's first lady, Mildred Aristide, authored a book documenting the *restavek* phenomenon in Haiti, its historical background, and the steps that the Government should take to combat the practice. The practice of sending children, mainly girls, to work as domestic servants in exchange for that child's room and board has existed in the country for centuries. While some *restaveks* received adequate care including an education, the Ministry of Social Affairs believed that many employers compelled the children to work long hours, provided them little nourishment, and frequently beat and abused them. The majority of *restaveks* worked in homes where the yearly income was very low, so conditions, food, and education for nonbiological children were not priorities.

In May, the Ministry of Labor and Social Affairs held a conference to unveil the results of a study that the Government co-sponsored with UNICEF, ILO/IPEC, UNDP, and Save the Children Canada and UK to determine the fundamentals of child domestic labor practice. The study, which covered the fiscal years 2001-02, noted that 173,000 children, or 8.2 percent of children between the ages of 5 and 17 years of age, worked as domestic household labor. Of that 8.2 percent, girls comprised the majority of child domestics at 59 percent and boys at 41 percent. Labor laws require anyone who has a child domestic in their employ to obtain a permit from IBESR and to ensure the overall welfare of the child until they reach 15 years of age. Additionally, the law requires that *restaveks* 15 years of age and older be paid not less than one half the amount paid to an adult servant hired to perform similar work, in addition to room and board. To avoid this obligation, employers dismissed many *restaveks* before they reached that age.

The Government acknowledged the problem of internal trafficking and took steps to address it, despite severe resource constraints. The Government devoted the bulk of its entire social welfare budget to combating trafficking of children. Since its establishment in 2000, the hotline for child abuse victims received over 720 calls leading to action on 158 cases, either through initiation of criminal action against an abusive adult or removal of the child from an abusive situation. Eighty-three percent of the children involved in these cases were in domestic service, many were under the age of 12, and many reported abuses such as beatings, rape, and malnutrition. In August, IBESR hired four additional monitors to rescue children believed to be working in forced labor situations. Government officials placed rescued victims in shelters and in the care of local NGOs, such as Foyer Maurice Sixto, a children's shelter located in Port-au-Prince.

In August, the Ministry of Foreign Affairs approved the creation of three additional consulates along the Haitian/Dominican border, which were charged with monitoring the movement of Haitian children across the border. The Ministry of the Interior also reinforced agents at border control points at the three international airports to watch for children who might be traveling unaccompanied or without their parents. The Ministry of Justice circulated memorandums to magistrates around the country in an awareness-heightening campaign on the new anti-trafficking law and on child labor laws. To address some of the social aspects of the *restavek* practice, the Government provided a subsidy of 70 percent for educational supplies, including books and uniforms. The Government also called on employers of child domestics to release them from their duties in the afternoon to allow them the opportunity to attend school.

There was no evidence that the authorities were complicit in trafficking of persons.